

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**



Ex parte LANCE R. CARLSON,
JEFFREY L. WHALEY and ROBERT L. METZ

Application No. 09/224,202

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 20, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Appeal Brief filed November 28, 2005, is defective because the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41/37 (c)(1)(v) which states:

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and

the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

A review of the application indicates that the following headings are missing from the Appeal Brief of November 28, 2005:


- 1) "Evidence appendix", as set forth in 37 CFR § 41.37(c)(1)(ix); and
- 2) "Related proceedings appendix", as set forth in 37 CFR § 41.37(c)(1)(x).

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief of November 28, 2005 defective;
- 2) for the applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief and, if necessary, vacate the Examiner's Answer mailed February 8, 2006 and issue a revised Examiner's Answer;
- and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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